

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)

Rules and Regulations Implementing the)
Truth in Caller ID Act of 2009)
_____)

WC Docket No. 11-39

COMMENTS OF TRANSACTION NETWORK SERVICES, INC.

Transaction Network Services, Inc. (TNS) respectfully submits these comments on the Commission's proposed rules to implement the Truth in Caller ID Act of 2009 (Truth in Caller ID Act, or the Act) signed into law on December 22, 2010.

TNS is a leading global provider of data communications and interoperability solutions. By combining innovation, advanced technology, experience and service excellence, TNS delivers managed communications solutions to service providers and enterprises on a global scale. Thousands of companies from the retail, banking, financial markets and telecommunications industries count on TNS to build and manage their mission critical communications platforms, improving their ability to communicate and transact efficiently and effectively.

TNS operates some of the largest real time community-based networks in the world, enabling industry participants to simply and securely interact and transact with other businesses, while connecting to the data and applications they need over highly available platforms. Specific to the telecommunications industry in North America, TNS is the largest independent signaling and database infrastructure services company, providing Signaling System Seven (SS7) and IP signaling services for call set up and tear down, as well as access to intelligent network databases

and authoritative telecommunication carrier registries for call routing and advanced calling services. In addition to its vast interconnected SS7 signaling network, TNS hosts authoritative calling name information databases with data provided directly from telecommunications carriers for over 800 customers.

Caller identification (Caller ID) is a valuable service that gives consumers the ability to decide whether or how to answer a call based on the telephone number and/or caller name displayed. Caller ID services promote consumers' privacy by allowing them to identify and screen out unwanted calls and to identify incoming calls from telemarketers so that they can place "do-not-call" requests to those companies. Caller ID services also provide an important resource for the Commission and the Federal Trade Commission (FTC) to enforce related provisions of the Telephone Communications Privacy Act and the FTC's Telemarketing Sales Rule that require telemarketers to transmit caller identification information to any Caller ID service in use by a recipient of a telemarketing call.¹

TNS supports government efforts to prohibit calling parties from defrauding the called party by causing false, misleading or inaccurate Caller ID information to be transmitted to the called party who subscribes to Caller ID service (a practice known as "spoofing"). To address concerns about Caller ID spoofing, Congress passed The Truth in Caller ID Act, which was recently signed into law.² The Act makes it "unlawful for any person within the United States, in connection with any telecommunications service or IP-enabled voice service, to cause any caller

¹ The Commission adopted regulations pursuant to the Telephone Communications Privacy Act, 47 U.S.C. 227, that are codified at 47 C.F.R. 64.1601(e) that provide that any person or entity who engages in telemarketing must transmit "caller identification information." Likewise, the Federal Trade Commission's Telemarketing Sales Rule codified at 16 C.F.R. 310.4(a)(7) requires telemarketers to transmit identifying information to caller identification services.

² Truth In Caller ID Act of 2009, Pub. L. No. 11-331, codified at 47 U.S.C. §227(e).

identification service to knowingly transmit misleading or inaccurate caller information with the intent to defraud, cause harm, or wrongfully obtain anything of value.”³ Caller identification services as defined under the Act means any service or device “designed to provide the user of the service or device with the telephone number of, or other information regarding the origination of, a call made using a telecommunications service or IP-enabled voice service.”⁴

Caller identification services provided by telecommunication providers that are interconnected to the public switched telephone network rely upon identifying information transmitted with the signaling codes that accompany a telephone transmission. Telephone calls on the public switched telephone network are routed to their destinations by means of a specialized protocol called SS7. SS7 includes a calling party number (CPN) field in the initial address message that is intended to identify the telephone number of the caller, and a privacy code that indicates whether access to this information should be restricted. Basic Caller ID services display the CPN. Enhanced Caller ID services provide additional information by associating the CPN with a caller name and displaying both the name and number. The caller name is typically obtained by the call recipient’s telecommunications service provider or terminating carrier sending a query to a centralized calling name (“CNAM”) database that associates telephone numbers with names of up to 15 characters. If the database returns an associated name, the name, or both the name and the number, are displayed by the call recipient’s equipment while the call is ringing, unless a privacy code indicates that access to the name is blocked.

³ 47 U.S.C. § 227(e)(1).

⁴ 47 U.S.C. § 227(e)(8)(B).

As the Commission noted in its Notice of Proposed Rulemaking, The Truth in Caller ID Act was enacted into law in the context of these existing Commission rules that already address interstate Caller ID and other calling party number (CPN) services. Under the Commission's existing rules, common carriers that use SS7 and that offer or subscribe to any service based on SS7 functionality already are required as a general rule to transmit the calling party number (CPN) associated with an interstate call to interconnecting carriers.⁵ In addition, under existing rules, a calling party can request that his or her calling number not be revealed on a call-by-call basis by dialing *67 before dialing the phone number.⁶ Carriers using SS7, or offering or subscribing to any service based on SS7 call set-up functionality, are required to recognize and honor calling parties' privacy requests. As a result, on a call-by-call basis, most callers (except telemarketers) are permitted to block a call recipient from seeing the calling party's telephone number or name. Thus, whether the CPN and other caller identification information are revealed to the called party generally depends on whether the called party receives caller ID service from his or her service provider, and whether the calling party has requested privacy. This basic framework reflects the Commission's balancing of the benefits to the recipient of the caller ID service with the privacy interest of the calling party.⁷

No common carrier subscribing to or offering any service that delivers CPN (like Caller ID services) may override the privacy indicator associated with an interstate call.⁸ Carriers must arrange their CPN-based services in such a manner that when a caller requests that the CPN not be passed, a carrier may not reveal that caller's number or name, nor may the carrier use the

⁵ 47 C.F.R. § 64.1601.

⁶ 47 C.F.R. § 64.1601(b).

⁷ See Commission's Notice of Proposed Rulemaking at pp.2-3.

⁸ 47 C.F.R. § 64.601(b).

number or name to allow the called party to contact the calling party.⁹ Furthermore, when populating name information in authoritative databases to make that information available to terminating carriers, the originating carrier may provide a privacy indicator associated with delivery of the name. As a general rule, the terminating carrier must act in accordance with the privacy indicator that indicates whether the calling party authorizes presentation of the calling party number or name to the called party.¹⁰

The Truth in Caller ID Act was enacted within this existing regulatory framework that balances the benefits of Caller ID services with the privacy interest of the calling party. In fact, the Act specifies that it is not intended to be construed to prevent or restrict any person from blocking the transmission of caller identification information. 47 U.S.C. §227(e)(2). And as the Commission's Notice of Proposed Rulemaking points out, the legislative history shows that Congress intended to protect subscriber's ability to block the transmission of their own caller identification information to called parties.¹¹

Because of this existing regulatory framework, the Commission appropriately has proposed to implement the provisions of the Act by adding a section to its current rules governing CPN services which focus on whether the *caller* has knowingly manipulated the caller identification information that is seen by the call recipient in order to defraud, cause harm, or wrongfully obtain anything of value. But to better implement the provisions of the Act and its

⁹ Id.

¹⁰ Id.

¹¹ See NPRM, at p. 11 fn. 45 citing Senate Commerce Committee Report at 3 ("FCC regulations currently provide callers with the right to block the capability of any caller identification service to transmit caller identification information. This bill makes clear that it would not prevent or restrict persons from blocking services that way.")

enforcement consistent with the Commission's focus on the caller, and to promote the accuracy of Caller ID services while simultaneously respecting the privacy of the calling party on a call-by-call basis consistent with its existing rules, TNS recommends that the Commission add a section to its proposed rules. The Commission should require telecommunications providers that offer Caller ID or enhanced Caller ID services interconnected to the public switched telephone network to query on a call-by-call basis the authoritative database designated by the calling party's carrier for the calling name information, as defined in the Commission's proposed rules.

By requiring the terminating call carriers providing Caller ID services to query the authoritative database designated by the originating call carriers where such database contains the calling party identification information and name privacy indicators of its subscribers, the Commission will greatly enhance the accuracy of the Caller ID information provided to consumers. Under such a rule, the Commission and the FTC would be better equipped to enforce the provisions of the Telephone Communications Privacy Act and the FTC's Telemarketing Sales Rule that require telemarketers to transmit caller identification information to any Caller ID service in use by a recipient of a telemarketing call. The Commission also would then have an authoritative data source containing the calling party's caller identification information to look to and compare to the caller identification information actually transmitted or displayed to consumers when determining whether such information has been transmitted when required under existing rules, or spoofed and caused to be knowingly manipulated and transmitted or displayed in a misleading or inaccurate manner by the calling party in violation of the new rules implementing The Truth in Caller ID Act.

If the Commission does not require the authoritative database designated by the calling party's carrier that contains the caller identification information provided by the calling party as

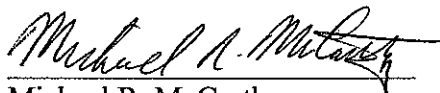
its subscriber to be queried, the terminating carrier may select another database to query which displays misleading or inaccurate calling name information about the calling party without any involvement by the calling party or the calling party's carrier. This will make enforcement of the provisions of the Act against the calling party next to impossible because the calling party will not have knowingly caused the inaccurate or misleading calling information contained in the third party's calling name database to be transmitted or displayed. By requiring the calling party carrier's authoritative database to be queried, the calling party can control on a call-by-call basis first whether it authorizes presentation of the calling party number and name from such database at all, and if so, the manner in which it is transmitted and displayed. Under such circumstances, if the calling name information is spoofed or manipulated by the calling party, it can be shown that the calling party "knowingly" manipulated the calling name information over which it had control, and "knowingly" caused it to be transmitted and displayed in a misleading or inaccurate manner with intent to defraud, cause harm, or wrongfully obtain anything of value because it authorized presentation of the calling name information in such manner to the called party through its privacy indicator.

Moreover, if the Commission does not require the calling party carrier's authoritative database to be queried, this could lead to unnecessary and inappropriate enforcement actions against calling parties and their originating carriers because the terminating carriers queried a database that transmitted or displayed misleading or inaccurate calling name information about the calling party over which they had no control or input, or because the terminating carrier failed to respect the privacy designation of the calling party.

CONCLUSION

For the reasons described above, the Commission should require the calling name information stored in the calling party carrier's designated authoritative database to be queried for such information to promote increased enforcement of the Commission's existing rules in a manner that would protect consumers, to promote enforcement of the new provisions of the Truth in Caller ID directed against spoofing, and to generally promote the accuracy of Caller ID services while respecting the privacy of calling party's who do not wish and are permitted not to display their calling name information.

Respectfully submitted,



Michael R. McCarthy
SVP & Associate General Counsel
Transaction Network Services, Inc.
11480 Commerce Park Drive, Suite 600
Reston, VA 20191
703-453-8314